

**Board of Forestry and Fire Protection
Range Management Advisory Committee (RMAC)
Water Focus Group**

**Minutes
October 18, 2005**

Attending:

RMAC:

Ken Zimmerman
Mike Connor
Clancy Dutra
Henry Giacomini
Neil McDougald
Mel Thompson
Jeff Stephens

Representing

California Cattlemen's Association
Public Member
California Farm Bureau Federation
California Farm Bureau Federation
California Cattlemen's Association
California Wool Growers Association
CDF / RMAC Executive Secretary

Also Attending:

Gaylon Lee	State Water Control Board
Ken Tate	UC Cooperative Extension, Davis
Tony Francois	Farm Bureau Federation
Noelle Cremers	Farm Bureau Federation
Tracy Schohr	Cattlemen's Association

Items 1 and 2, Call to Order and Introductions:

Henry Giacomini called the meeting to order at 1:00 PM. Introductions of all present were made.

Item 3, Review of the August 2005

Draft of the August 2005 minutes were distributed for review. Final approval deferred to the full RMAC meeting October 19, 2005.

Item 4, Finalize Goals of Water Focus Group:

Deferred in favor of beginning the discussion on Item 5; Report from the State Water Resources Control Board.

Item 5, Report from the State Water Resources Control Board on non-point source pollution policy and regulation pertaining to grazing lands. Producer groups invited. (Gaylon Lee SWRCB)

Henry Giacomini referred to the minutes of August 2005 and discussion that resulted in a letter from RMAC to the producer groups represented by RMAC, asking if they had knowledge of any laws or regulations that call for the protection/maintenance of rangelands. Jeff Stephens confirmed that the Cattlemen's Association was the only group that responded to the letter in writing. Noelle Cremers stated that there is a bill introduced in the legislature that would strengthen current agricultural policy language for the protection and maintenance of Ag lands. However, that bill has not moved forward due to disagreement in content. Henry Giacomini recommended that if RMAC take on the job of pursuing new law / policy that pertains to protection / maintenance of rangelands, and that this task is assigned to the Range Land Focus Group. Clancy Dutra agreed and recommended that the Water Focus Group propose this action to the full RMAC meeting the following day. The Focus Group agreed.

Gaylon Lee asked if the Cattlemen's letter included information from the Williamson Act. Henry Giacomini cited the Food and Ag Code and the Government Code mentioned in the Cattlemen's letter; however, there was no reference to the Williamson Act. Tony Francois stated that the Williamson Act has more to do with restricting land use and maintaining open space. Discussion then lead to the conclusion that new language sought would be more focused on the maintenance of AG land specifically rather than just open space.

Henry Giacomini focused discussion on the NPS grazing lands issue. He mentioned a meeting that occurred in Sacramento with various groups and agencies represented, and that he attended this meeting as the RMAC representative. Gaylon Lee was asked to provide an update on recent activities and began by stating that meetings similar to the one cited by Mr. Giacomini are under way with various groups/agencies as a means of engaging all interested parties for comment. He met with Representatives of the Regional Water Boards on September 9, 2005 and plans to meet with the US Forest Service on October 24th. He hopes to meet with environmental groups and technical assistance groups November 1st. A meeting is also being sought with BLM.

Mike Connor asked Gaylon Lee to identify the objective of these meetings. Mr. Lee responded by identifying two objectives: 1) introduce people to the NPS Policy, and 2) serve as a means to gather information before making decisions on policy (recommendations and concerns). After the conclusion of these meetings the State Water Board is considering the formation of an Advisory Committee that will assist with the formulation of a State program for NPS on grazing lands. The process will hopefully be completed by the end of 2006; then circulate for public review.

Gaylon Lee then outlined concerns expressed at the September 30, 2005 meeting by the various stake holders represented as follows:

1. We do not have the resources to address every water quality issue on grazing lands. A recommended strategy is to focus first on those considered the most important and table others for a future effort.
2. Some Regions like Region 2 are considering using TMDLs to address the problem. Focus first on the areas where the greatest benefit may be achieved and then handle others through the TMDL process.
3. Considerable concern was expressed with the cost of monitoring. Gaylon Lee stated that the State Board is looking at effectiveness monitoring as being the type required versus compliance monitoring. Mike Connor noted that this is a different approach from where most Regional Boards are headed. Gaylon Lee agreed.

Tony Francois asked Gaylon Lee to give a summary of where the Regions stand on the NPS policy issue. Mr. Lee summarized as follows:

Region 2 tended to favor TMDLs as the preferred method.

Region 5 has a lesser desire for regulatory rigor. They prefer to focus on specific problem areas rather than a watered down statewide program that may not be effective on solving all problems. No watershed ambient monitoring.

Region 3 was not represented at the meeting.

Region 6 has specific problems they wish to focus on and rely on the State Water Board stepping in to provide policy implementation and guidance.

Tony Francois proposed a Public Science Conference that informs participants of the process being developed and answers questions on NPS. Gaylon Lee responded by stating there is a lot of evidence that is unpublished and should be surfaced in such a conference.

Henry Giacomini asked for additional comment from Tony Francois and Noelle Cremers regarding input from their constituents. Noelle Cremers cited evidence from her North Coast constituents that Region 1 is pressing ahead with a compliance program, and that there is a danger of parallel efforts occurring. Tony Francois stated that if the process were to develop where Regions had the latitude to develop regulations that go well beyond State requirements, this would be a problem for land owners and managers. Henry Giacomini stated that our objective should be to avoid double regulations and double permits to address the same problem. Tony Francois agreed. Further discussion cited cases where a landowner may have both irrigated and non-irrigated lands. A single waiver should be sought for these practices.

Noelle Cremers stated that Region 1 is looking at a waiver for Ag grazing; leaving that to the State program to administer.

Tracy Schohr stated that Cattlemen's did receive a lot of calls from members expressing concern that previous work completed on NPS should not be forgotten.

Item 6: An update on available data and research regarding non-point source pollution from grazing lands. (Ken Tate, University of California Davis)

Ken Tate provided an overview of research materials that are available from various sources. He cited BMPs that they have tested for effectiveness. He further stated that by using BMPs that have been researched for effectiveness a landowner may be relieved of the requirement to monitor every time a BMP is used. Highlights of available research cited by Ken Tate:

1. Background levels of contaminants
2. Riparian health – Yosemite Toad, Willow Fly Catcher.
3. Water quality data from numerous streams at various elevations.
4. Microbial levels
5. Infections disease from livestock.
6. Irrigated pasture management
7. Prop 50 funding recently received to investigate water quality and agriculture.
8. Nitrate leaching
9. Stream canopy and temperature currently being published

Jeff Stephens asked if there is any research that measured the magnitude of the problem on a watershed basis. Ken Tate responded by stating that there are such studies over a landscape basis based on GIS layers and land use. Mel Thompson noted that research is spotty on the relative contribution of fecal material. He is concerned that regulations are being formed in an information vacuum. Are regulations going to be realistic? Ken Tate could not answer the question.

Gaylon Lee would like to have future discussions with Ken Tate to determine where the most cost effective areas are for research that provides direction to the landowner, and formulates realistic regulation. Henry Giacomini asked if there is conflicting research that may be exploited by certain groups adversarial to the grazing industry. Ken Tate responded yes. Interpretation can be difficult. Having specific questions for science to answer is helpful to avoiding this problem.

Henry Giacomini expressed concern that the process of developing regulation be science based. Gaylon Lee responded by stating that one of the components of a water quality plan is to include best management practices. The 1995 plan has this, but the new effort offers an opportunity to incorporate new information for BMPs.

Mike Connor asked if State law is impacted by Federal law. Gaylon Lee stated in some ways. The state can always be more stringent than federal law.

Mel Thompson noted that in the case of irrigated lands water is applied and there is a cause and effect. In the case of grazing lands, the manager is accepting whatever happens and the liability that goes with it. Ken Tate responded that a manager can identify problem areas such as sediment from gullies, and take responsibility for BMPs to fix those problems.

Tony Francois raised the issue of “legacy soil sources” from old practices. Who becomes responsible? Some fear a superfund designation situation may develop from past practices by previous landowners. Ken Tate responded that this problem exists with some agencies such as US Forest Service. He recommended focusing on current management problems rather than past.

Mike Connor asked Ken Tate if a revised program for irrigated Ag and rangeland quality would be useful. He responded a revision to the older Range Land Water Quality Management Plan would be useful to the regulation process.

Item 7, Discussion: Amending the “1995 Range Water Quality Management Plan” (RWQMP) in response to proposed policy and regulation pertaining to non-point source pollution and grazing lands.

Henry Giacomini asked that Gaylon Lee begin the discussion on amending the current RWQMP as a means of dealing with new NPS policy and regulations. Gaylon Lee approached this task by referring to the handout “Key Elements of an Implementation Program for Controlling NPS Pollution on Non-Irrigated Rangeland.” The policy sets forth standards for approval which are somewhat subjective. Mike Connor asked if it is acceptable to make substantial progress towards meeting an objective rather than attaining the established objective. Gaylon Lee responded yes, stating that showing progress is part of the policy. In such cases a phased program is called for where attainment occurs according to a schedule.

The remainder of the discussion was focused on the “Key Elements” document. Key Point: Gaylon Lee stated that the RWQMP contains performance standards and other elements that have served us well. However, it is a voluntary program and the changes to Porter Cologne will no longer allow a voluntary implementation program.

Another major change is with verification both at the landowner level and the programmatic level. Henry Giacomini asked if this means they are signed up as a member of a coalition, and are they operating according to a ranch plan regulations. Gaylon Lee responded that it means both. A key question is whether there is a 3rd party that will step up and take responsibility for

certification/verification. This is a problem. Statutes will require verification. Ken Tate indicated that it must be a transparent process.

Gaylon Lee went on to explain that self certification is an option. Another option is for other assistance agencies to provide certification of ranch plans as a service (NRCS for example); or a local coalition may act as the third party. Gaylon Lee would like to hear from the producers as to what type of process will work best.

Clancy Dutra stated that he was one of the original persons that worked on the 95 plan, and recalls that the Regional Boards did not support the process fully. In order for there to be consistency from the state to the Regions there must be agreement between both. Otherwise producers will see no reason to participate. Gaylon Lee agreed and is seeking Regional Board participation on the proposed advisory committee. He also stated that his goal is for the new plan to be more formal, possibly reviewed by the OAL to give it stature.

Discussion of the Time Schedule item 3 of the Key Elements document: Ken Zimmerman noted that a flexible time schedule is needed to account for unexpected events (weather). Clancy Dutra noted that time schedules also depend on whether the rancher can afford it. Ken Tate noted that a ranch plan must be a living document that adapts to unexpected events.

Item 4, Finalize the Water Focus Group goals for the 2005/2006 fiscal year.

Henry Giacomini asked that the Focus Group consider future work in light of the discussion presented thus far on the NPS issue for grazing lands. Mike Connor directed a question to Ken Tate and Gaylon Lee asking for their input on what assistance RMAC may provide.

Gaylon Lee posed the question what would RMAC like to contribute? Ken Tate suggested a redesign of the educational program; one that recognizes that there will be both old and new people that need the training to write or modify an existing plan. RMAC may act as a forum for information exchange; outreach.

Ken Zimmerman asked how old is the current NPS Program. Gaylon Lee responded that it was developed in the late 1990s and is up for review. Ken Zimmerman recommended that RMAC look at the program and tie development of the NPS component of the regulations to the development of a revised Ranch Water Quality Management Plan. Gaylon Lee agreed.

Ken Zimmerman also recommended that there should be an 8 hour continuation education requirement that goes with the Ranch Plan to keep the plan current. Gaylon Lee agreed and stated this allows for adaptive management but was hesitant to make it a requirement.

Henry Giacomini posed the question of what specifically RMAC should work on. Gaylon Lee responded by saying RMAC should provide input on:

1. Purpose and goals of the program.
2. Best Management Practices; this may come primarily from UC Extension.
3. The kind of implementation program that will work the best. Who will take the lead be it a watershed consortium or other entity.
4. How to perform verification and disclosure that will be least offensive to landowners.

Mel Thompson noted that we are being invited to participate at the ground floor. We should accept.

Clancy Dutra stated that to do anything that is similar to the last effort spent on the 1995 plan will require funding, possibly even staff in order to be successful. Gaylon Lee noted and seconded by Jeff Stephens that RMAC does not have authority to accept funding and therefore requires another entity to receive funding on behalf of RMAC. Gaylon Lee stated the Water Board and EPA may have money to fund the effort. Ken Zimmerman stated that it was a 1 ½ year process. Gaylon Lee would like to have something out for public review in a year's time. Ken Zimmerman then recommended getting the issues before the interested groups ASAP. Tracy Schohr stated that they are scheduling the subject for the next Cattlemen's meeting.

Mike Connor recommended that a substantial discussion in one of the Cattlemen's Committee take place. Mel Thompson recommended that RMAC generate a white paper that clarifies what has changed.

Ken Zimmerman cited a conversation he had with Dick O'Sullivan regarding the previous effort in 1995. Mr. O'Sullivan stated that after speaking with many different ranchers throughout the state that he had very little to show for his effort because there is continuous change in the regulations. Why put in the effort when there is no guarantee for stability from the regulators. If it becomes too difficult then there is incentive to subdivide and leave the industry. He also noted that regulators are focused on the wrong sector for solving NPS. Most of it is coming from other industries.

Ken Tate stated that there are two things RMAC can do to sell ranchers on becoming involved:

1. Documentation of beneficial practices that are occurring in the state so that regulators understand what is working.
2. Build into the process a way to demonstrate that education and land management ethics do lead to good things happening on the ground.

Tony Francois noted in response that the perception of some folks as a result of the last plan is that if you do these best management practices the result will be that it

removes the rancher from the regulatory radar screen. Severe damage to relations between the regulator and the rancher will result if this turns out to be a trick.

Noelle Cremers noted that in developing this plan we can not forget all the good things that are being done and have been done or trust will be severely damaged.

Neil McDougald asked if the new policy and proposed regulations impact the federal lands. Gaylon Lee stated that he believes any update to the 1995 plan would not impact the federal lands. He was not aware if DFG and State Parks would be impacted.

In closing comments Gaylon Lee put forth the idea that RMAC may wish to take a leadership role on the proposed advisory committee. Ken Tate stated that this would place RMAC in position to affect the decisions made by the policy makers.

Henry Giacomini made the following recommendations for RMAC to consider at the full committee meeting.

1. That if RMAC elects to take on the task of reviewing and promoting statute that has as its purpose to protect and maintain rangeland, that this effort should be the responsibility of the Rangeland Focus Group.
2. Review the existing Range Water Quality Management Plan.
3. RMAC taking the lead on the advisory committee proposed by Gaylon Lee.

Ken Zimmerman asked the Farm Bureau and Cattlemen's representatives if they support RMAC taking a lead role on the proposed advisory committee. Both responded in the affirmative.

Henry Giacomini called for any new and unfinished business and public comment. None occurred.

Meeting Adjourned at 5:00 PM.